



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

**JAN 18 2017**

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

John McManus  
Vice President, Environmental Services  
American Electric Power  
1 Riverside Plaza  
Columbus, Ohio 43215

Re: Notice of Violation and Finding of Violation  
American Electric Power, Conesville Power Plant  
Conesville, Ohio

Dear Mr. McManus:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation and Finding of Violation (NOV/FOV) to American Electric Power (AEP) under Section 113(a) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a). We find that AEP has violated and continues to violate the Ohio State Implementation Plan, the New Source Performance Standards, and AEP's Title V Operating Permit at the Conesville Power Plant, located in Conesville, Ohio.

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV/FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the NOV/FOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Ethan Chatfield. You may call him at (312) 886-5112 to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward Nam", written in a cursive style.

Edward Nam  
Director  
Air and Radiation Division

Enclosure

cc: Janet J. Henry, Deputy General Counsel  
American Electric Power

Robert Hodanbosi, Chief  
Division of Air Pollution Control, Ohio EPA

Melissa Witherspoon, Acting Assistant Chief  
Ohio EPA/DAPC, Southeast District Office

1. The CAA is designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population. Section 101(b)(1) of the CAA, 42 U.S.C. § 7401(b)(1).
2. Section 108(a) of the CAA, 42 U.S.C. § 7408(a), requires the Administrator of EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may endanger public health or welfare, and the presence of which results from numerous or diverse mobile or stationary sources. For each such “criteria” pollutant, Section 109 of the CAA, 42 U.S.C. § 7409, requires EPA to promulgate national ambient air quality standards (NAAQS) to protect the public health and welfare.
3. Section 110 of the CAA, 42 U.S.C. § 7410, requires each state to adopt and submit to EPA for approval a SIP that provides for the implementation, maintenance, and enforcement of the NAAQS. Section 110 also requires that each SIP contain adequate provisions prohibiting any source within the state from emitting any air pollutants in

amounts which will interfere with attainment or maintenance of the NAAQS or cause significant deterioration of air quality in any other state. *See* 40 C.F.R. Part 52.

4. Section 111 of the CAA, 42 U.S.C. § 7411, requires the Administrator of the EPA to establish federal standards of performance for new sources within the list of categories of stationary sources. *See* 40 C.F.R. Part 60.
5. Section 502(b) of the CAA, 42 U.S.C. § 7661, requires the Administrator of the EPA to promulgate regulations which establish the minimum elements of a permit program to be administered by any air pollution control agency. *See* 40 C.F.R. Part 70.
6. Sections 113(a)(1) and (a)(3) of the CAA, 42 U.S.C. §§ 7413(a)(1) and (a)(3), provide that the Administrator may issue an administrative penalty order pursuant to Section 113(d), 42 U.S.C. § 7413(d), or bring a civil action pursuant to Section 113(b), 42 U.S.C. § 7413(b), for injunctive relief and/or civil penalties whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated or is in violation of any requirement or prohibition of, *inter alia*, an applicable implementation plan, a standard of performance and Title V of the CAA, 42 U.S.C. §§ 7661-7661f, or any rule or permit issued thereunder. *See also* 40 C.F.R. § 52.23.

#### Ohio State Implementation Plan – Opacity Regulations

7. EPA approved Ohio Administrative Code (OAC) Chapter 3745-17-07(A)(1) as part of the federally enforceable Ohio SIP effective June 27, 1994. 59 *Fed. Reg.* 27464 (May 27, 1994). EPA approved minor revisions to the rule effective December 27, 2010. 75 *Fed. Reg.* 65567 (Oct. 26, 2010).
8. OAC 3745-17-07(A)(1) of the Ohio SIP requires that “visible particulate emissions from any stack shall not exceed twenty percent opacity, as a six-minute average. [The]... visible particulate emissions from any stack may exceed twenty per cent opacity, as a six-minute average, for not more than six consecutive minutes in any sixty minutes, but shall not exceed sixty per cent opacity, as a six-minute average, at any time.” June 27, 1994 *See* 59 *Fed. Reg.* 27464.

#### New Source Performance Standards: Subpart D

9. Section 111(b) of the CAA, 42 U.S.C. § 7411(b), requires EPA to publish a list of categories of stationary sources and, within a year after the inclusion of a category of stationary sources in a list, to publish proposed regulations establishing Federal standards of performance for new sources within the source category. These standards are known as “new source performance standards” or “NSPS.”
10. The NSPS are national technology-based performance standards for air pollutant sources constructed or modified after a specified date. The purpose of the standards is to ensure that all new or modified sources of air pollutants will be designed to meet emission limitations achievable through the application of the best demonstrated system for emission reduction considering the cost of achieving such reduction and any non-air

quality health and environmental impact and energy requirements. Section 111(a)(1) of the CAA, 42 U.S.C. § 7411(a)(1).

11. Section 111(e) of the CAA, 42 U.S.C. § 7411(e), states that, after the effective date of standards of performance promulgated under Section 111, it is unlawful for any owner or operator of any new source to operate the source in violation of any applicable standard of performance.
12. Under Section 111 of the CAA, 42 U.S.C. § 7411, the Administrator promulgated the NSPS for Fossil-Fuel-fired Steam Generators, codified at 40 C.F.R. Part 60, Subpart D on June 13, 2007. 72 Fed. Reg. 32717.
13. 40 C.F.R. § 60.42(a)(2) of Subpart D states that “no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected facility any gases that exhibit greater than 20 percent opacity, except for one 6-minute period per hour of not more than 27 percent opacity.”

#### Title V Requirements

14. EPA fully approved of the Ohio’s Title V operating permit program effective October 1, 1995. *See* 40 C.F.R. Part 70, Appendix A; 60 *Fed. Reg.* 42045 (August 15, 1995). The Ohio regulations governing the Title V operating permit program are codified at OAC 3745-77, and are federally enforceable pursuant to Section 113(a)(3).
15. On February 12, 1998, the Ohio Environmental Protection Agency issued a Final Title V Permit to the Conesville Power Plant. The Title V Permit contains the following provisions:
  - a. Part III, A.I.1 for the Unit 5 Main Boiler (B007) and Unit 6 Main Boiler (B008) provides that, pursuant to 40 CFR Part 60.42(a)(2), “visible particulate emissions shall not exceed 20% opacity as a 6-minute average, except for not more than 6 consecutive minutes in any 60 minutes, but shall not exceed 27 percent opacity, as a 6-minute average, at any time.
  - b. Part III, A.I.2.a for the Unit 5 Main Boiler (B007) and Unit 6 Main Boiler (B008) provides that the units are subject to the opacity limitations under OAC rule 3745-17-07(A), but that the limit is less stringent than the limit contained in 40 C.F.R. Part 60.

#### **Factual Background**

16. AEP is incorporated in New York.
17. AEP is a “person,” as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

18. The Conesville Power Plant is located at 47201 County Road 273, Conesville, Ohio, which is in Coshocton County.
19. AEP operates three coal-fired boilers at the Conesville Power Plant, identified as Unit 4 (B004), Unit 5 (B007), and Unit 6 (B008). Units 5 and 6 are sister units that exhaust to the same stack.
20. Units 5 and 6 are 375 MW electric utility steam-generating units each having a nominal capacity of 4,091 mmBtu/hr and began commercial operation in 1976 and 1978, respectively. Both boilers are subject to NSPS Subpart D.
21. On November 18, 2016, EPA performed visible emissions readings of the Unit 5/6 combined stack in accordance with EPA Method 9 and observed 6-minute average opacity in excess of the 20% limitation. This excess emissions period appeared to continue beyond EPA's observation period above, and was noted while EPA was leaving the observation area.

#### **Violations**

22. AEP violated and continues to violate OAC 3745-17-07(A)(1)(a) of the Ohio SIP, NSPS Subpart D, and the Title V Permit at the Conesville Power Plant Unit 5/6 stack by exceeding 20% opacity, as a six-minute average, on an ongoing basis.
23. Pursuant to Section 113(e) of the CAA, the violations set forth in Paragraph 22 above are presumed to continue each day until AEP establishes continuous compliance except to the extent that AEP can prove by a preponderance of the evidence that there were intervening days during which no violations occurred.

#### **Environmental Impact of Violations**

24. Violation of the opacity limits and excess sulfuric acid mist emissions increase public exposure to unhealthy particulate matter. Particulate matter, especially fine particulate, contributes to respiratory problems, lung damage, and premature deaths.

\_\_\_\_\_  
Date

11/18/17

\_\_\_\_\_  
Edward Nam

Director

Air and Radiation Division

## CERTIFICATE OF MAILING

I certify that I sent a Notice and Finding of Violation, No. EPA-5-17-OH-10, by Certified Mail, Return Receipt Requested, to:

John McManus  
Vice President, Environmental Services  
American Electric Power  
1 Riverside Plaza  
Columbus, Ohio 43215-2373

I also certify that I sent copies of the Notice and Finding of Violation by first-class mail to:

Janet J. Henry  
Deputy General Counsel  
American Electric Power  
1 Riverside Plaza  
Columbus, OH 43215

Robert Hodanbosi, Chief  
Division of Air Pollution Control,  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Melissa Witherspoon, Acting Assistant Chief  
Ohio EPA/DAPC, Southeast District Office  
2195 Front Street  
Logan, Ohio 43138

On the 19<sup>th</sup> day of January 2017.



For: Kathy Jones  
Program Technician  
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7646 9975